

IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CASE NO. 2:07-cr-012-MEF
)	(WO)
GREGORY LEWIS DAVIS)	

ORDER

On June 19, 2007, the defendant filed a Second Motion to Continue Trial and Motion for Extension of Time to File Objections to the Magistrate Judge's Report and Recommendation (Doc. #34). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any continuance that the judge grants "on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A).

The motion states that a hearing on defendant's motion to suppress was held on June 13, 2007 and a Report and Recommendation was entered on June 18, 2007 which denied the defendant's motion. Objections to the Report and Recommendation are due on or before

June 26, 2007. Defense counsel has not received a copy of the transcript of the suppression hearing which he must have before he can draft his objections. Counsel for the government does not oppose the motion for a continuance. Consequently, the court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. *See United States v. Davenport*, 935 F.2d 1223, 1235 (11th Cir. 1991)(reasonable time necessary for effective preparation is a significant factor for granting a continuance under the Speedy Trial Act).

Accordingly, it is hereby ORDERED:

1. That the defendant's motion filed on June 19, 2007 is GRANTED. Objections to the Magistrate Judge's Report and Recommendations are due on or before July 11, 2007;
2. That the trial of this case is continued from the July 9, 2007 trial term to the October 15, 2007 trial term.
3. That the Magistrate Judge conduct a pretrial conference prior to the October 15, 2007 trial term.

DONE this the 20th day of June, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE